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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

In re:	§	Case No. 05-21207
	§	
ASARCO LLC, <i>et al.</i> ,	§	Chapter 11
	§	
Debtors.	§	Jointly Administered
	§	

**MOTION FOR ORDER AUTHORIZING ASARCO LLC TO
ENTER INTO CONTRACT FOR CAPPING WORK
AT THE EAST HELENA, MONTANA SMELTER**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN TWENTY (20) DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREED OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

ASARCO LLC, BY SEPARATE MOTION, IS SEEKING AN EXPEDITED HEARING ON THIS MOTION, FOR TUESDAY, NOVEMBER 7, 2006 AT 10:00 A.M.

TO THE HONORABLE RICHARD S. SCHMIDT, UNITED STATES BANKRUPTCY JUDGE:

ASARCO LLC ("ASARCO" or the "Debtor") respectfully files this Motion for Order Authorizing ASARCO LLC to Enter into Agreement for Capping Work at the East Helena, Montana Smelter (the "Motion").

PARTIES, JURISDICTION, AND VENUE

1. On April 11, 2005, several wholly owned subsidiaries (the “Asbestos Subsidiary Debtors”¹) of ASARCO LLC (“ASARCO”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in this Court. On August 9, 2005, ASARCO filed its voluntary petition for relief in this Court. On August 26, 2005, Encycle, Inc. filed a voluntary petition for relief in this Court. On September 1, 2005, ASARCO Consulting, Inc. filed a voluntary petition for relief in this Court. On October 13, 2005, ten additional subsidiaries² filed voluntary petitions for relief in this court. This Motion will refer to all of the above-referenced cases collectively as the “Reorganization Cases.”³

2. The Debtors remain in possession of their property and are operating their businesses as Debtors-in-possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code. An official committee of unsecured creditors was appointed in the Asbestos Subsidiary Cases, and an official committee of unsecured creditors (the “Creditors’ Committee”) has also been appointed in ASARCO’s case. No trustee or examiner has been appointed in any of the Reorganization Cases.

3. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. This Court may hear and determine this Motion under the standing order of reference issued by the United States District Court for the Southern District of Texas under 28 U.S.C. § 157. Consideration of this Motion is a core proceeding under 28 U.S.C. § 157(b). Venue of this

¹ The Asbestos Subsidiary Debtors consist of the following five entities: Lac d’Amiante du Québec Ltée (f/k/a Lake Asbestos of Quebec, Ltd.); Lake Asbestos of Quebec, Ltd.; LAQ Canada, Ltd.; CAPCO Pipe Company, Inc. (f/k/a/ Cement Asbestos Products Company); and Cement Asbestos Products Company.

² The ten entities that filed on October 13, 2005 are: ALC, Inc.; American Smelting and Refining Company; AR Mexican Explorations Inc.; AR Sacaton, LLC, an Arizona limited liability company; Asarco Master, Inc.; Asarco Oil and Gas Company, Inc.; Bridgeview Management Company, Inc.; Covington Land Company; Government Gulch Mining Company, Limited; and Salero Ranch, Unit III, Community Association, Inc.

³ Encycle/Texas, Inc., an affiliated debtor whose case is pending under chapter 7, is not included within the definition of Reorganization Cases, and nothing in this Motion is intended to apply to Encycle/Texas, Inc.

proceeding is proper in this district under 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief requested herein is section 363 of the Bankruptcy Code.

RELIEF REQUESTED

4. The Debtor seeks authorization pursuant to section 363(b)(1) of the Bankruptcy Code to enter into an agreement for the capping work at the East Helena, Montana lead smelter plant, as described in greater detail below, with the entity submitting a bid that allows the work to be completed by December 31, 2006, and that is the best and lowest bid, as determined by the Debtor in consultation with the Creditors' Committee.

BACKGROUND

5. ASARCO has operated a lead smelter plant in East Helena, Montana since 1888, and continues to own the plant. Prior to its bankruptcy filing, ASARCO entered into Consent Decrees with the Environmental Protection Agency (the "EPA") and the Montana Department of Environmental Quality that require it to clean up the East Helena facility by the end of the year.

6. The sinter plant area and the acid plant sediment drying area temporary cap project are located at the smelter facility. ASARCO must temporarily cap these two areas within the smelter complex in order to prevent the infiltration of storm water, which could adversely affect the quality of subsurface soils and groundwater. A capping work plan has been submitted and approved by the EPA, and is scheduled for completion in 2006. The capping project is expected to cost \$200,000, plus or minus 50%.

7. The sinter plant area is located in the west central portion of the plant. This area underwent demolition activities that were completed earlier in 2006. Existing concrete slabs & footings remain in some areas as well as some exposed soils.

8. The acid plant sediment drying area is located near the northwest corner of the Lower Lake, which is in the south portion of the plant. This area was formerly used to dry

sediments from the acid plant. A slurry wall is currently being constructed around the perimeter of the area as a separate project. The temporary cap will prevent infiltration of storm water into the slurry wall interior.

9. The capping activities will include removal of identified existing concrete footings, backfill of identified areas, grading and capping with liner components.

10. ASARCO will seek bids for the capping work from the following five companies: Shaw Environmental, Envirocon, Randall Contracting, Northside Welding, and CDM. Shaw Environmental and Envirocon are already under contract with ASARCO for other work at the smelter, so ASARCO would only need to enter into change orders if one of their bids is selected. ASARCO would need to enter a new contract if the bid of one of the other three companies is selected.

11. ASARCO believes that each of the entities that has been invited to submit bids have the means and qualifications to do the work. The main components that ASARCO will use to evaluate the bids are the bidders' proposed price and construction schedule. Once bids are received, ASARCO will consult with the Creditors' Committee to select the best and lowest bid from among the bids that provide for completion of the work by year-end.

12. Because the capping work must be completed by December 31, 2006, ASARCO must award the contract to one of the bidders by November 15, 2006. ASARCO therefore asks that the Court authorize it to enter into an agreement to perform the capping work with the entity that submits the best and lower bid, as determined by ASARCO, in consultation with the Creditors' Committee.

LAW AND ARGUMENT

13. Section 363(b)(1) of the Bankruptcy Code permits a debtor in possession, after notice and a hearing, to use, sell or lease property of the estate other than in the ordinary course of its business.

14. In the exercise of its business judgment, ASARCO seeks authority to enter into the agreement with the entity that submits the best and lowest best, as determined by the Debtor, in consultation with the Creditors' Committee. The Debtor believes that entry into the agreement is necessary to complete the capping work by year-end, is in the interests of public health and safety, and is in the best interests of ASARCO's estate.

CERTIFICATE OF SERVICE

15. In compliance with Bankruptcy Local Rule 9013(f) and contemporaneously with this pleading, the Debtor has filed as a separate document a Certificate of Service containing the names and addresses of the parties served, the manner of service, the name and address of the server, and the date of service.

WHEREFORE, ASARCO respectfully requests that the Court enter an order granting the Motion and granting such other and further relief as is just and proper.

Dated: October 30, 2006

Respectfully submitted,

BAKER BOTTS L.L.P.

Jack L. Kinzie
State Bar No. 11492130
James R. Prince
State Bar No. 00784791
2001 Ross Avenue
Dallas, Texas 75201-2980
Telephone: 214.953.6500
Facsimile: 214.661.6503
Email: *jack.kinzie@bakerbotts.com*
jim.prince@bakerbotts.com

and

BAKER BOTTS L.L.P.

/s/ Tony M. Davis

Tony M. Davis

State Bar No. 05556320

Mary Millwood Gregory

State Bar No. 14168730

One Shell Plaza

Houston, Texas 77002

Telephone: 713.229.1234

Facsimile: 713.229.1522

Email: *tony.davis@bakerbotts.com*

mary.gregory@bakerbotts.com

and

**JORDAN, HYDEN, WOMBLE, CULBRETH, &
HOLZER, P.C.**

Shelby A. Jordan

State Bar No. 11016700

Nathaniel Peter Holzer

State Bar No. 00793971

Kevin J. Franta

State Bar No. 24027319

Suite 900, Bank of America

500 North Shoreline

Corpus Christi, Texas 78471

Telephone: 361.884.5678

Facsimile: 361.888.5555

Email: *sjordan@jhwclaw.com*

pholzer@jhwclaw.com

kfranta@jhwclaw.com

**COUNSEL TO DEBTORS AND DEBTORS-IN-
POSSESSION**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

In re:	§	Case No. 05-21207
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**MOTION FOR EXPEDITED HEARING ON MOTION FOR
ORDER AUTHORIZING ASARCO LLC TO ENTER INTO CONTRACT FOR
CAPPING WORK AT EAST HELENA, MONTANA SMELTER**

**AN EXPEDITED HEARING IS REQUESTED FOR NOVEMBER, 7, 2006, AT 10:00 A.M.
TO THE HONORABLE RICHARD S. SCHMIDT, UNITED STATES BANKRUPTCY JUDGE:**

ASARCO LLC ("ASARCO" or the "Debtor") respectfully files this motion for expedited hearing on its Motion for Order Authorizing ASARCO LLC to Enter into Agreement for Capping Work at the East Helena, Montana Smelter (the "Motion"), and for cause would show as follows:

1. The Motion seeks approval of ASARCO's entry into an agreement for the capping work at the East Helena, Montana lead smelter plant, as described in greater detail in the Motion, with the entity whose bid allows the work to be completed by December 31, 2006 and is the best and lowest bid, as determined by the Debtor in consultation with the Official Committee of Unsecured Creditors appointed in ASARCO's bankruptcy case.

2. ASARCO requests an expedited hearing on the Motion because the capping work must be completed by December 31, 2006, which means that ASARCO must award the contract to the lowest and best bidder by November 15, 2006.

WHEREFORE, ASARCO requests an expedited hearing on the Motion to be set on the docket and held on Tuesday, November, 7 2006, at 10:00 a.m., and for such further relief as may be just and equitable.

Dated: October 30, 2006

Respectfully submitted,

BAKER BOTTS L.L.P.

Jack L. Kinzie
State Bar No. 11492130
James R. Prince
State Bar No. 00784791
2001 Ross Avenue
Dallas, Texas 75201-2980
Telephone: 214.953.6500
Facsimile: 214.661.6503
Email: *jack.kinzie@bakerbotts.com*
jim.prince@bakerbotts.com
and

BAKER BOTTS L.L.P.

/s/ Tony M. Davis
Tony M. Davis
State Bar No. 05556320
Mary Millwood Gregory
State Bar No. 14168730
One Shell Plaza
Houston, Texas 77002
Telephone: 713.229.1234
Facsimile: 713.229.1522
Email: *tony.davis@bakerbotts.com*
mary.gregory@bakerbotts.com
and

**JORDAN, HYDEN, WOMBLE, CULBRETH, &
HOLZER, P.C.**

Shelby A. Jordan
State Bar No. 11016700
Nathaniel Peter Holzer
State Bar No. 00793971
Kevin J. Franta
State Bar No. 24027319
Suite 900, Bank of America
500 North Shoreline
Corpus Christi, Texas 78471
Telephone: 361.884.5678
Facsimile: 361.888.5555
Email: *sjordan@jhwclaw.com*
pholzer@jhwclaw.com
kfranta@jhwclaw.com

**COUNSEL TO DEBTOR AND DEBTOR-IN-
POSSESSION**

VERIFICATION OF TONY M. DAVIS

Pursuant to 28 U.S.C. § 1746, I, Tony M. Davis, declare under penalty of perjury that I am one of the attorneys for Debtor in the above-referenced bankruptcy proceeding, I have read the above Motion for Expedited Hearing, and the facts stated in it are within my personal knowledge and are true and correct.

Dated: October 30, 2006

/s/ Tony M. Davis

Tony M. Davis